

Atty Docket No. 02307V-133910US

PTO FAX NO.: 1-571-273-0459

ATTENTION: PETITIONS OFFICE

Examiner Pasterczyk Group Art Unit 1755

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I hereby certify that the following documents in re Application of ALEXANDER KATZ and JOHN D. BASS, Application No. 10/806,825, filed March 22, 2004 for THERMOLYTIC SYNTHESIS OF INORGANIC OXIDES IMPRINTED WITH FUNCTIONAL MOIETIES are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Documents Attached

1. PETITION TO WITHDRAW FINALITY OF REJECTION

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Dated: December 15, 2006


Lois M. Simón

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PATENT
Docket No.: 02307V-133910US
Client Ref. No.: B03-070-2US

TOWNSEND and TOWNSEND and CREW LLP

By: 

Lois M. Simon

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

ALEXANDER KATZ and JOHN
D. BASS

Application No.: 10/806,825

Filed: March 22, 2004

For: THERMOLYTIC SYNTHESIS OF
INORGANIC OXIDES IMPRINTED
WITH FUNCTIONAL MOIETIES

Confirmation No.: 4243

Examiner: Pasterczyk

Art Unit: 1755

PETITION TO WITHDRAW FINALITY
OF REJECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition from the decision of the Examiner to make the Office Action of October 17, 2006 a Final Rejection, and request withdrawal of the finality of said Action.

In this Application, the Examiner first issued an Office Action rejecting claims. Applicants responded and the examiner then issued a Final Rejection stating that the previous rejections had been overcome but then rejecting the claims as anticipated by or obvious from six newly cited references.

In response, in order to provide the opportunity to argue against these new rejections, Applicants filed a Request for Continued Examination and submitted arguments against the rejections and amended the claims in response to other rejections (which have not been repeated). Within two weeks the examiner issued the current First Action Final Rejection of all claims, stating that the finality of the rejection was proper

ALEXANDER KATZ and JOHN D. BASS
Application No.: 10/806,825
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since these claims could have been finally rejected in the present application if presented earlier.

Applicants agree that examiners have the right, in general, to issue a first action Final rejection when claims could have been finally rejected previously. However, Applicants submit that to do so herein, when Applicants are seeking to respond to a complicated set of rejections involving six references, after an immediately previous final rejection, has the potential of placing an unfair prosecution burden on Applicants. Applicants submit that they have made, and are making, a good faith effort to properly respond to and deal with the issues raised by the examiner. However, by making this first Action after an RCE a Final rejection, the examiner has set up the prosecution so that a refusal to enter any amendments or arguments submitted in response could then be issued, requiring Applicants to file a further RCE for the sole purpose of having its response considered by the examiner, who could then again issue a first action Final rejection, etc., ad infinitum. Applicants sincerely hope that this will not happen, but are concerned that it could.

This application is assigned to a non-profit organization, and it and Applicants are seeking to properly and carefully prosecute this Application, including amending claims if necessary and proper to overcome art rejections, and arguing against such rejections as also necessary and appropriate. This First Action Final Rejection, however, produces a concern to Applicants. In any event, Applicants and their attorneys are currently in the process of reviewing the examiner's comments in order to prepare a response to this Action.

Applicants therefore petition that the finality of this rejection be withdrawn, and it be treated as a non-final rejection, and request a decision be issued to that effect.

This petition being filed not later than two months from the Action, is considered timely.



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To: Authorized Officer
USPTO, PCT DIVISION

Fax: 1 571 273 0459

From: Kathleen L. Connell
KYOCERA WIRELESS CORP.

Date: 15 December 2006

Re: ADJUSTABLE ANTENNA MATCHING
Int'l. App. No.: PCT/US2006/005468
Filing Date: 16 February 2006
Priority Date: 17 February 2005
Applicant(s): Kyocera Corporation

Pages: 21

Dkt. No. TUTL 00011 PC

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Message:

The following items are incorporated for filing in connection with International Application No. PCT/US2006/005468:

- Facsimile Cover Sheet (1 pg.)
- Article 34 Amendment & Response to Written Opinion (14 pgs.)
- PCT Chapter II Demand (4 pgs.)
- PCT Fee Calculation Sheet (1 pg.)
- Credit Card Payment Form (1 pg.)

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6	FWCLM	1

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